

SENATE BILL 371

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 30;
Title 45; Title 48; Title 56; Title 66 and Title 67,
relative to the "Uniform Unclaimed Property Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 29, Part 1, is amended by deleting the part and substituting instead the following:

66-29-101. This part shall be known as the "Uniform Unclaimed Property Act."

66-29-102.

As used in this part, unless the context otherwise requires:

(1) "Apparent owner" means a person whose name appears on the records of a holder as the owner of property held, issued, or owing by the holder;

(2) "Business association" means a for-profit or nonprofit corporation, joint stock company, investment company other than an investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, land bank, safe deposit company, safekeeping depository, financial organization, insurance company, federally chartered entity, utility, sole proprietorship, or other business entity;

(3) "Confidential information" has the same meaning as described in § 66-29-178;

(4) "Domicile" means:

(A) For a corporation, the state of its incorporation;

(B) For a business association, other than a corporation, whose formation requires a filing with a state, the state of its filing;

(C) For a federally chartered entity or an investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 et seq.), the state of its home office; and

(D) For any other holder, the state of its principal place of business;

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(6) "Electronic mail" means any communication of information by electronic means that is automatically retained and stored and may be readily accessed or retrieved;

(7) "Financial organization" means a savings and loan association, building and loan association, savings bank, industrial bank, bank, banking organization, or credit union;

(8) "Game-related digital content" means digital content that exists only in an electronic game or electronic-game platform. "Game-related digital content":

(A) Includes:

(i) Game-play currency such as a virtual wallet, even if denominated in United States currency; and

(ii) The following if for use or redemption only within that game or platform or another electronic game or electronic-game platform:

(a) Points sometimes referred to as gems, tokens, gold, and similar names; and

(b) Digital codes; and

(B) Does not include an item that the issuer:

(i) Permits to be redeemed for use outside of a game or platform for:

(a) Money; or

(b) Goods or services that have more than minimal value; or

(ii) Otherwise monetizes for use outside of a game or platform;

(9) "Gift card":

(A) Means a stored-value card:

(i) The value of which does not expire;

(ii) That may be decreased in value only by redemption for merchandise, goods, or services; and

(iii) That, unless required by law, must not be redeemed for or converted into money or otherwise monetized by the issuer; and

(B) Includes a prepaid commercial mobile radio service, as that term is defined in 47 CFR 20.3;

(10) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner of property that is subject to this part;

(11) "Insurance company" means an association, corporation, or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including, but not limited to, accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance;

(12) "Local government" means any metropolitan government, municipality, or county located in this state;

(13) "Loyalty card" means a record given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program that may be used or redeemed only to obtain goods or services or a discount on goods or services. "Loyalty card" does not include a record that may be redeemed for money or otherwise monetized by the issuer;

(14) "Military medal" means any decoration or award that may be presented or awarded to a member of the armed forces of the United States or national guard;

(15) "Mineral" means gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by any other law of this state;

(16) "Mineral proceeds" means an amount payable for extraction, production, or sale of minerals or, on the abandonment of the amount, the amount that becomes payable after abandonment. "Mineral proceeds" includes an amount payable:

(A) For the acquisition and retention of a mineral lease, including, but not limited to, a bonus, royalty, compensatory royalty, shut-in royalty, minimum royalty, and delay rental;

(B) For the extraction, production, or sale of minerals, including, but not limited to, a net revenue interest, royalty, overriding royalty, extraction payment, and production payment; and

(C) Under an agreement or option, including, but not limited to, a joint operating agreement, unit agreement, pooling agreement, and farm out agreement;

(17) "Money order" means a payment order for a specified amount of money and includes, but is not limited to, an express money order and a personal money order on which the remitter is the purchaser;

(18) "Municipal bond" means a bond of evidence of indebtedness issued by a municipality or other political subdivision of a state;

(19) "Net card value" means the original purchase price or original issued value of a stored-value card, plus amounts added to its original value and minus amounts used and any service charge, fee, or dormancy charge permitted by law;

(20) "Non-freely transferable security" means a security that cannot be delivered to the treasurer by the Depository Trust & Clearing Corporation or a similar custodian of securities providing post-trade clearing and settlement services to financial markets, or that cannot be delivered because there is no agent to effect transfer. "Non-freely transferable security" includes a worthless security;

(21) "Owner" means a person who has a legal, beneficial, or equitable interest in property subject to this part or the person's legal representative when acting on behalf of the owner. "Owner" includes:

(A) A depositor, for a deposit;

(B) A beneficiary, for a trust other than a deposit in trust;

(C) A creditor, claimant, or payee, for other property; and

(D) The lawful bearer of a record that may be used to obtain money, a reward, or a thing of value;

(22) "Payroll card" means a record that evidences a payroll card account, as that term is defined in 12 CFR 1005.2;

(23) "Person" means an individual, estate, business association, public corporation, government or governmental subdivision, agency, instrumentality, or other legal entity;

(24) "Property" means tangible property described in §§ 66-29-109, 30-2-702, and 31-6-107 or a fixed and certain interest in intangible property held, issued, or owed in the course of a holder's business or by a government, governmental subdivision, agency, or instrumentality. "Property":

(A) Includes all income from or increments to the property;

(B) Includes property referred to as or evidenced by:

(i) Money, virtual currency, interest, dividend, check, draft, deposit, or payroll card;

(ii) A credit balance, customer's overpayment, stored-value card, security deposit, refund, credit memorandum, unpaid wage, unused ticket for which the issuer has an obligation to provide a refund, mineral proceeds, or an unidentified remittance;

(iii) A security, other than:

(a) A worthless security; or

(b) A security that is subject to a lien, legal hold, or restriction evidenced on the records of the holder or imposed by operation of law, and that restricts the holder's

or owner's ability to lawfully receive, transfer, sell, or otherwise negotiate the security;

(iv) A bond, debenture, note, or other evidence of indebtedness;

(v) Money deposited to redeem a security, make a distribution, or pay a dividend;

(vi) An amount due and payable under the terms of an annuity contract or insurance policy; and

(vii) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits; and

(C) Does not include:

(i) Game-related digital content;

(ii) A loyalty card;

(iii) An in-store credit for returned merchandise; or

(iv) A gift card;

(25) "Putative holder" means a person believed by the treasurer to be a holder, until the person pays or delivers to the treasurer property subject to this part or until a final determination is made that the person is a holder;

(26) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(27) "Security" means:

(A) A security interest, as that term is defined in § 47-1-201; or

(B) A security entitlement, as that term is defined in § 47-8-102, including, but not limited to, a customer security account held by a registered broker-dealer, to the extent that the financial assets held in the security account are not registered on the books of the issuer in the name of, payable to the order of, or specifically endorsed to, the person for whom the broker-dealer holds the assets;

(28) "Sign" means, with present intent to authenticate or adopt a record:

(A) To execute or adopt a tangible symbol; or

(B) To attach to or logically associate with the record an electronic symbol, sound, or process;

(29) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(30) "Stored-value card":

(A) Means a record evidencing a promise made for consideration by the seller or issuer of the record that goods, services, or money will be provided to the owner of the record equal to the value or amount shown in the record;

(B) Includes:

(i) A record that contains or consists of a microprocessor chip, magnetic strip, or other means for the storage of information, which is prefunded and whose value or amount is decreased on each use and increased by payment of additional consideration; and

(ii) A payroll card; and

(C) Does not include a loyalty card, gift card, or game-related digital content;

(31) "Treasurer" means the state treasurer;

(32) "Treasurer's agent" means a person with whom the treasurer contracts to conduct an examination under § 66-29-157 on behalf of the treasurer and an independent contractor of the person. "Treasurer's agent" includes each individual participating in the examination on behalf of the person or contractor;

(33) "Utility" means a person that owns or operates for public use a plant, equipment, real property, franchise, or license for the following public services:

(A) The transmission of communications or information;

(B) The production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas; or

(C) The provision of sewage and septic services, trash or garbage services, or recycling disposal;

(34) "Virtual currency" means a digital representation of value used as a medium of exchange, unit of account, or a store of value that is not recognized by the United States as legal tender. "Virtual currency" does not include:

(A) The software or protocols governing the transfer of the digital representation of value;

(B) Game-related digital content; or

(C) A loyalty card or gift card; and

(35) "Worthless security" means a security whose cost of liquidation and delivery would exceed the value of the security on the date a report is due under this part.

66-29-103.

This part does not apply to property held, due, and owing in a foreign country if the transaction involving the property was a wholly foreign transaction.

66-29-104.

The treasurer may promulgate rules to carry out this part.

66-29-105.

(a) Except as otherwise provided in § 66-29-113, property is presumed abandoned if it is unclaimed by the apparent owner at the time specified for the following property:

(1) A traveler's check, fifteen (15) years after issuance;

(2) A money order, seven (7) years after issuance;

(3) A state or municipal bond, a bearer bond, or an original-issue-discount bond, three (3) years after the earlier of the date the bond matures or the date the bond is called or the obligation to pay the principal of the bond arises;

(4) A debt of a business association, three (3) years after the obligation to pay arises;

(5) A payroll card or demand, savings, or a time deposit, including a deposit that is automatically renewable, three (3) years after the earlier of maturity or the date of the last indication of interest in the property by the apparent owner; provided, that a deposit that is automatically renewable is deemed matured on its initial date of maturity unless the apparent owner consented in a record on file with the holder to a renewal at or about the time of the renewal;

(6) Money or credits owed to a customer as a result of a retail business transaction, other than in-store credit for returned merchandise, three (3) years after the obligation arose;

(7) An amount owed by an insurance company on a life or endowment insurance policy or an annuity contract that has matured or terminated, three (3) years after the obligation to pay arose under the terms of the policy or contract or, if a policy or contract for which an amount is owed on proof of death has not matured by proof of death of the insured or annuitant, three (3) years after the earlier of the date:

(A) The insurance company has knowledge of the death of the insured or annuitant; or

(B) The insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve for the policy or contract is based;

(8) Property distributable by a business association in the course of dissolution, one (1) year after the property becomes distributable;

(9) Property held by a court, including property received as proceeds of a class action, one (1) year after the property becomes distributable;

(10) Property held by a government or governmental subdivision, agency, or instrumentality, including municipal bond interest and unredeemed principal under the administration of a paying agent or indenture trustee, one (1) year after the property becomes distributable;

(11) Wages, commissions, bonuses, or reimbursements as to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card, one (1) year after the amount becomes payable;

(12) A deposit or refund owed to a subscriber by a utility, one (1) year after the deposit or refund becomes payable;

(13) Property payable or distributable in the course of the demutualization of an insurance company, three (3) years after the earlier of the date of last contact with the policyholder or the date the property became payable or distributable; and

(14) All other property not specified in this section or § 66-29-106, § 66-29-107, § 66-29-108, § 66-29-109, § 66-29-110, or § 66-29-111, the earlier of three (3) years after the owner first has a right to demand the property or the obligation to pay or distribute the property arises.

(b) Notwithstanding § 66-29-113, property, other than property specified in § 66-29-106, whose owner is known to the holder to have died and left no one to take the property by will and no one to take the property by intestate succession, is presumed abandoned without regard to any activity or inactivity within specified abandonment periods.

(c)

(1) Notwithstanding any provision of this section to the contrary, any outstanding check, draft, credit balance, customer's overpayment, or unidentified remittance issued to a business entity or association as part of a commercial transaction in the ordinary course of a holder's business is not presumed abandoned if the holder and such business entity or association have an ongoing business relationship. An ongoing business relationship is deemed to exist if the holder has engaged in a commercial, business, or professional transaction involving the sale, lease, license, or purchase of goods or services with the business entity or association or a predecessor-in-interest of the business entity

or association within the dormancy period immediately following the date of the check, draft, credit balance, customer's overpayment, or unidentified remittance giving rise to the unclaimed property interest. A transaction between the holder and a third-party insurer of another is a commercial transaction which constitutes an ongoing business relationship between the holder and the insurer.

(2) As used in this subsection (c):

(A) "Dormancy period" means the period during which a holder may hold a property interest before it is presumed to be abandoned; and

(B) "Predecessor-in-interest" is a person or entity whose interest in a business entity or association was acquired by its successor-in-interest, whether by purchase of the business ownership interest, purchase of business assets, statutory merger, consolidation, or a successive acquisition by whatever means accomplished.

66-29-106.

(a) Except as otherwise provided in § 66-29-113, and except for property held in a governmental plan, as that term is defined in 26 U.S.C. § 414, property held in a pension account or retirement account that qualifies for tax deferral under the income tax laws of the United States, is presumed abandoned if it is unclaimed by the apparent owner three (3) years after the later of:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service, or, if the second communication is sent later than thirty (30) days after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or

(2) The earlier of:

(A) The date the apparent owner becomes seventy and one-half (70 1/2) years of age, if determinable by the holder; or

(B) If the Internal Revenue Code (26 U.S.C. § 1 et seq.) requires distribution, two (2) years after the date the holder in the ordinary course of its business receives confirmation of the death of the apparent owner.

(b) If a holder in the ordinary course of its business receives notice or an indication of the death of an apparent owner and subdivision (a)(2) applies, the holder shall attempt, not later than ninety (90) days after receipt of the notice or indication, to confirm whether the apparent owner is deceased.

(c) If the apparent owner of an account described in subsection (a) does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the property by sending the apparent owner an electronic mail communication not later than two (2) years after the apparent owner's last indication of interest in the property. If the holder receives notification that the electronic mail communication was not received, or if the apparent owner does not respond to the electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the apparent owner by first-class United States mail. If the mail is returned to the holder undelivered by the United States postal service, the property is presumed abandoned three (3) years after the later of:

(1) The date a second consecutive communication to contact the apparent owner sent by first-class United States mail is returned to the holder undelivered by the United States postal service, or, if the second communication is sent later than thirty (30) days after the date the first communication is returned

undelivered, the date the first communication was returned undelivered by the United States postal service; or

(2) The date established by subdivision (a)(2).

66-29-107.

Except as otherwise provided in § 66-29-113, and except for property described in § 66-29-106, property held in a governmental plan, as that term is defined in 26 U.S.C. § 414, and property held in a program described in Section 529A of the Internal Revenue Code (26 U.S.C. § 529A), property held in an account or plan, including a health savings account, that qualifies for tax deferral under the income tax laws of the United States is presumed abandoned if it is unclaimed by the owner three (3) years after the earlier of:

(1) The date, if determinable by the holder, specified in the income tax laws and regulations of the United States by which distribution of the property must begin to avoid a tax penalty, with no distribution having been made; or

(2) Thirty (30) years after the date the account was opened.

66-29-108.

(a) Except as otherwise provided in § 66-29-113, property held in an account established under title 35, chapter 7, is presumed abandoned if it is unclaimed by or on behalf of the minor on whose behalf the account was opened three (3) years after the later of:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the custodian of the minor on whose behalf the account was opened is returned undelivered to the holder by the United States postal service, or, if the second communication is sent later than thirty (30) days

after the date the first communication is returned undelivered, the date the first communication was returned undelivered by the United States postal service; or

(2) The date on which the minor on whose behalf the account was opened reaches the statutory age of majority in accordance with title 35, chapter 7, under which the account was opened.

(b) If the custodian of the minor on whose behalf an account described in subsection (a) was opened does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the custodian's interest in the property by sending the custodian an electronic mail communication not later than two (2) years after the custodian's last indication of interest in the property. If the holder receives notification that the electronic mail communication was not received, or if the custodian does not respond to the electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the custodian by first-class United States mail. If the mail is returned undelivered to the holder by the United States postal service, the property is presumed abandoned three (3) years after the later of:

(1) The date a second consecutive communication to contact the custodian by first-class United States mail is returned to the holder undelivered by the United States postal service; or

(2) The date established by subdivision (a)(2).

(c) When the minor on whose behalf an account described in subsection (a) reaches the age required for transfer to a minor of custodial property under applicable law, the property in the account is no longer subject to this section.

66-29-109.

(a) The following property related to safe deposit boxes is presumed abandoned:

(1) Any surplus amount resulting from the sale or disposal of safe deposit contents by banking institutions under § 45-2-907, if the proceeds cannot be credited to an existing customer account upon sale, and any unsold contents. Any credit of such proceeds to a customer account is not deemed to be account activity under § 66-29-113; and

(2) For any person, other than a bank, savings and loan association, or savings bank, any funds or personal property removed from a safe deposit box, a safekeeping repository or agency, or a collateral deposit box as the result of the expiration or termination of a lease or rental period due to nonpayment of rental charges or for any other reason, and that have been unclaimed by the owner for more than two (2) years from the date on which the lease or rental period expired or terminated, including any surplus amount arising from the sale thereof, pursuant to law, that has been unclaimed by the owner for one (1) year.

(b) Notwithstanding any other provision of law to the contrary, any military medal that is removed from a safe deposit box, a safekeeping repository or agency, or a collateral deposit box as a result of the expiration or termination of a lease or rental period due to nonpayment of rental charges or for any other reason, must not be sold or otherwise disposed of, and must be retained by the holder for the lessee of the box. If the military medal remains unclaimed by the lessee for more than one (1) year from the date the box is opened, the holder shall report such property to the state treasurer by November 1 of the subsequent calendar year. The report must comply with § 66-29-123. The holder shall deliver, with the report, the military medal to the state treasurer for safekeeping in accordance with § 66-29-145.

66-29-110.

(a) Except as otherwise provided in § 66-29-113, a stored-value card other than a payroll card or a gift card is presumed abandoned five (5) years after the later of:

(1) December 31 of the year in which the card is issued or additional funds are deposited into it;

(2) The most recent indication of interest in the card by the apparent owner; or

(3) A verification or review of the balance by or on behalf of the apparent owner.

(b) The amount abandoned by the owner in a stored-value card is the net card value at the time it is presumed abandoned.

66-29-111.

(a) Except as otherwise provided in § 66-29-113, a security is presumed abandoned three (3) years after:

(1) The date a second consecutive communication sent by the holder by first-class United States mail to the apparent owner is returned to the holder undelivered by the United States postal service; or

(2) If the second communication is made later than thirty (30) days after the first communication is returned, the date the first communication is returned undelivered to the holder by the United States postal service.

(b) If the apparent owner of a security does not receive communications from the holder by first-class United States mail, the holder shall attempt to confirm the apparent owner's interest in the security by sending the apparent owner an electronic mail communication not later than two (2) years after the apparent owner's indication of interest in the security. If the holder receives notification that the electronic mail communication was not received, or if the apparent owner does not respond to the

electronic mail communication within thirty (30) days after the communication was sent, the holder shall promptly attempt to contact the apparent owner by first-class United States mail. If the mail is returned to the holder undelivered by the United States postal service, the security is presumed abandoned three (3) years after the date the mail is returned.

66-29-112.

At the time an interest in property is presumed abandoned under this part, any other property right accrued or accruing to the apparent owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

66-29-113.

(a) Property is not presumed abandoned if the apparent owner indicates an interest in the property during the applicable periods under this part.

(b) Under this part, an indication of an apparent owner's interest in property includes:

(1) A record communicated by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held;

(2) An oral communication by the apparent owner to the holder or agent of the holder concerning the property or the account in which the property is held if the holder or its agent contemporaneously makes and preserves a record of the fact of the apparent owner's communication;

(3) Presentment of a check or other instrument of payment of a dividend, interest payment, or other distribution, or evidence of receipt of a distribution made by electronic or similar means, with respect to:

(A) An account;

(B) An underlying security; or

(C) An interest in a business association;

(4) Activity directed by an apparent owner in the account in which the property is held, including accessing the account or information concerning the account, or instruction by the apparent owner to increase, decrease, or otherwise change the amount or type of property held in the account;

(5) Making a deposit into or withdrawal from an account at a financial organization, including an automatic deposit or withdrawal previously authorized by the apparent owner, other than an automatic reinvestment of dividends or interest;

(6) Except as otherwise provided in subsection (e), payment of a premium on an insurance policy; and

(7) Any other action by the apparent owner which reasonably demonstrates to the holder that the apparent owner is aware that the property exists.

(c) An action by an agent or other representative of an apparent owner, other than the holder acting as the apparent owner's agent, is presumed to be an action on behalf of the apparent owner.

(d) A communication with an apparent owner by a person other than the holder or the holder's representative is not an indication of interest in the property by the apparent owner unless a record of the communication evidences the apparent owner's knowledge of a right to the property.

(e) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy is not an indication of interest in the policy and does not prevent the policy from maturing or terminating if the insured has died or the

insured or the beneficiary of the policy otherwise has become entitled to the proceeds before depletion of the cash surrender value of the policy by application of the provision.

66-29-114.

(a) As used in this section, "death master file" means the federal social security administration death master file or other database or service that is at least as comprehensive as the death master file for determining that a person reportedly has died.

(b) With respect to a life or endowment insurance policy or annuity contract for which an amount is owed on proof of death, but which has not matured by proof of death of the insured or annuitant, the company has knowledge of the death of an insured or annuitant when:

(1) The company receives a death certificate or a court order determining that the insured or annuitant has died;

(2) Due diligence performed to maintain contact with the insured or annuitant, or to determine whether the insured or annuitant has died, results in validation of the death of the insured or annuitant;

(3) A comparison is conducted by the company for any purpose between a death master file and the names of some or all of the company's insureds or annuitants, and a match is found providing notice that the insured or annuitant has died and the company validates the death;

(4) A comparison is conducted by the treasurer or the treasurer's agent for the purpose of finding matches during an examination conducted under § 66-29-157 between a death master file and the names of some or all of the company's insureds or annuitants, and a match is found providing notice that the insured or annuitant has died and the company validates the death; or

(5) The company:

(A) Receives notice of the death of the insured or annuitant from an administrator, beneficiary, policy owner, relative of the insured, or trustee, or from a personal representative, executor, or other legal representative of the insured's or annuitant's estate; and

(B) Validates the death of the insured or annuitant.

(c) The following provisions apply to a death master file comparison under subdivisions (b)(3) and (b)(4):

(1) A death master file match occurs if the criteria for an exact or partial match are satisfied as provided by:

(A) Any other law of this state; or

(B) A rule or policy adopted by the commissioner of commerce and insurance;

(2) A death master file match does not constitute proof of death for purposes of submission of a claim by a beneficiary, annuitant, or owner of the policy or contract to an insurance company for amounts due under an insurance policy or annuity contract;

(3) A death master file match under subdivision (b)(3) or (b)(4), or validation of the insured's or annuitant's death, does not alter the requirements for a beneficiary, annuitant, or owner of the policy or contract to make a claim to receive proceeds under the terms of the policy or contract; and

(4) Except for any law under title 56, or any rule promulgated thereunder, establishing a time for the validation of a death of an insured or annuitant, the insurance company shall make a good faith effort using other available records

and information to validate the death and document the effort taken not later than ninety (90) days after the insurance company has notice of the death.

(d) This part does not affect the determination of the extent to which an insurance company before the effective date of this act had knowledge of the death of an insured or annuitant, or was required to conduct a death master file comparison, or the determination of the extent to which the treasurer or the treasurer's agent before the effective date of this act was authorized to conduct a comparison for the purpose of finding matches during an examination under § 66-29-157, and to determine whether amounts owed by the company on a life or endowment insurance policy or annuity contract were presumed abandoned or unclaimed. An insurance company shall comply with, and the treasurer or the treasurer's agent may conduct an examination to ensure compliance with, the requirements of § 56-7-3404.

66-29-115.

If proceeds payable under a life or endowment insurance policy or annuity contract are deposited into an account with check or draft writing privileges for the beneficiary of the policy or contract, and the proceeds are retained by the insurance company or its agent under a supplementary contract not involving annuity benefits other than death benefits, the policy or contract includes the assets in the account.

66-29-116.

Under this part:

(1) The last known address of an apparent owner is any description, code, or other indication of the location of the apparent owner that identifies the state of residence, regardless of whether the description, code, or indication of location is sufficient to direct the delivery of first-class United States mail to the apparent owner;

(2) If the United States postal zip code associated with the apparent owner is for a post office located in this state, this state is deemed to be the state of the last known address of the apparent owner unless other records associated with the apparent owner specifically indicate that the physical address of the apparent owner is located in a different state;

(3) If records indicate that the address of the apparent owner is located in a different state in accordance with subdivision (2), the different state is deemed to be the state of the last known address of the apparent owner; and

(4) The address of the apparent owner of a life or endowment insurance policy or annuity contract or its proceeds is presumed to be the address of the insured or annuitant if a person other than the insured or annuitant is entitled to the amount owed under the policy or contract and the address of the other person is not known by the insurance company and cannot be identified under § 66-29-117.

66-29-117.

The treasurer may take custody of property that is presumed abandoned, whether located in this state, another state, or in a foreign country if:

(1) The last known address of the apparent owner, as shown on the records of the holder, is located in this state; or

(2) The records of the holder do not reflect the identity or last known address of the apparent owner, and the treasurer has determined that the last known address of the apparent owner is located in this state.

66-29-118.

(a) Except as otherwise provided in subsection (b), if records of a holder reflect multiple addresses for an apparent owner and if this state is the state of the most

recently recorded address, this state may take custody of property presumed abandoned, whether located in this state or another state.

(b) If it appears from records of the holder that the most recently recorded address of the apparent owner under subsection (a) is a temporary address and if this state is the state of the next most recently recorded address that is not a temporary address, this state may take custody of property presumed abandoned.

66-29-119.

(a) Except as otherwise provided in subsection (b), § 66-29-117, or § 66-29-118, the treasurer may take custody of property presumed abandoned, whether located in this state, another state, or a foreign country, if the holder is domiciled in this state, or is the state or a governmental subdivision, agency, or instrumentality of this state, and:

(1) Another state or foreign country is not entitled to the property because there is no last known address of the apparent owner or other person entitled to the property in the records of the holder; or

(2) The state or foreign country in which the last known address of the apparent owner or other person entitled to the property is located does not provide for custodial taking of the property.

(b) The property is not subject to the custody of the treasurer under subsection (a) if:

(1) The property is specifically exempt from custodial taking under the law of the state or foreign country in which the last known address of the apparent owner or other person entitled to the property is located; or

(2) The property is specifically exempt from custodial taking under the law of this state.

(c) For the purposes of this section, if the holder's state of domicile has changed since the time the property was presumed abandoned, the holder's state of domicile is deemed to be the state where the holder was domiciled at the time the property was presumed abandoned.

66-29-120.

Except as otherwise provided in §§ 66-29-117 - 66-29-119, the treasurer may take custody of property presumed abandoned, whether located in this or another state, if:

(1) The transaction involving the property occurred in this state;

(2) The holder is domiciled in a state that does not provide for the custodial taking of the property; provided, that if the property is specifically exempt from custodial taking under the law of the state of the holder's domicile, the property is not subject to the custody of the treasurer; and

(3) The last known address of the apparent owner or other person entitled to the property is unknown or in a state that does not provide for the custodial taking of the property; provided, that if the property is specifically exempt from custodial taking under the law of the state in which the last known address is located, the property is not subject to the custody of the treasurer.

66-29-121.

The treasurer may take custody of sums payable on a traveler's check, money order, or similar instrument presumed abandoned to the extent permissible under 12 U.S.C. §§ 2501 - 2503.

66-29-122.

When the treasurer asserts a right to custody of unclaimed property, the treasurer has the burden to prove:

- (1) The existence and amount of the property;
- (2) The property is presumed abandoned; and
- (3) The property is subject to the custody of the treasurer.

66-29-123.

(a) A holder of property presumed abandoned and subject to the custody of the treasurer shall report in a record to the treasurer concerning the property. The report must be filed through an electronic medium in a manner prescribed by the treasurer. The treasurer may waive the requirement to file the report through an electronic medium if the holder demonstrates in writing that strict compliance would be too costly or oppressive to the holder. In such event, the holder shall file the report in such alternate medium as the treasurer deems acceptable.

(b) A holder may contract with a third party to create the report required under subsection (a).

(c) Regardless of whether a holder contracts with a third party under subsection (b), the holder is responsible:

- (1) To the treasurer for the complete, accurate, and timely reporting of property presumed abandoned; and
- (2) For paying or delivering to the treasurer property described in the report filed under this section.

66-29-124.

(a) The report required under § 66-29-123 must:

- (1) Be signed by or on behalf of the holder and verified as to its completeness and accuracy;
- (2) If filed electronically, be in a secure format approved by the treasurer;
- (3) Describe the property;

(4) Except for the report of a traveler's check, money order, or similar instrument, contain, if known or readily ascertainable, the name, last known address, date of birth, and social security number or taxpayer identification number of the apparent owner of property with a value of fifty dollars (\$50.00) or more;

(5) In the case of an amount held or owing under a life or endowment insurance policy or annuity contract, contain the full name and last known address of the insured, annuitant, or other apparent owner of the policy or contract and of the beneficiary;

(6) In the case of property held in or removed from a safe-deposit box, indicate the contents of the property and the name and last known address of the apparent owner;

(7) Contain the commencement date for determining abandonment under this part;

(8) State that the holder has complied with the notice requirements of § 66-29-128;

(9) Identify property that is a non-freely transferable security, and explain why it is a non-freely transferable security; and

(10) Contain any other information the treasurer may require by rule.

(b) A report under § 66-29-123 may include, in the aggregate, items valued at less than fifty dollars (\$50.00) per item. If the report includes items, in the aggregate, valued at less than fifty dollars (\$50.00) per item, the treasurer shall not require the holder to provide the name and address of an apparent owner of an item unless the information is necessary to verify or process a claim in progress by the apparent owner.

(c) A report under § 66-29-123 may include confidential information as described in § 66-29-178 about the apparent owner or the apparent owner's property to the extent not otherwise prohibited by federal law.

(d) If a holder has changed its name while holding property presumed abandoned or is a successor to another person who previously held the property for the apparent owner, the holder shall include in the report under § 66-29-123 its former name or the name of the previous holder, if any, and the last known name and address of each previous holder of the property.

66-29-125.

(a) Except as otherwise provided in this section, a report under § 66-29-123 must be filed before November 1 of each year and cover the twelve (12) months immediately preceding July 1 of that year. For property held during the year ending on December 31, 2016, the report must be filed before May 1, 2017. For property held for the period beginning on January 1, 2017, through July 1, 2018, the report must be filed before November 1, 2018.

(b) Except as otherwise provided in subsection (c), the report that must be filed by an insurance company under § 66-29-123 must be filed before May 1 of each year for the immediately preceding calendar year.

(c) Before the date for filing a report in accordance with subsection (a), the holder of property presumed abandoned may request the treasurer to extend the time for filing. The treasurer may grant an extension for good cause. If the extension is granted, the holder may pay or make a partial payment of the amount the holder estimates will be due. The payment or partial payment terminates accrual of interest on the amount paid.

66-29-126.

A holder required to file a report under § 66-29-123 shall retain records for ten (10) years after the later of the date the report was filed or the last date a timely report was due to be filed, unless a shorter period is prescribed by rule of the treasurer. A holder may satisfy the requirement to retain records under this section through an agent. The records must contain:

- (1) The information required to be included in the report;
- (2) The date, place, and nature of the circumstances that gave rise to the property right;
- (3) The amount or value of the property;
- (4) The last address of the apparent owner, if known to the holder; and
- (5) If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, and on which the holder is directly liable a record of the instruments while they remain outstanding indicating the state and date of issuance.

66-29-127.

Property is reportable and payable or deliverable under this part even if the owner fails to make demand or present an instrument or document otherwise required to obtain payment.

66-29-128.

(a) Any holder of property not yet presumed abandoned under this part may enter into agreements as may be necessary to ascertain the whereabouts of the apparent owner; provided, that costs associated with such agreements must not be deducted from the property or charged to the owner.

(b) Except as otherwise provided in subsection (c), the holder of property presumed abandoned shall send notice that complies with § 66-29-129 to the apparent owner in a form approved by the treasurer, by first-class United States mail, not more than one hundred eighty (180) days, nor less than sixty (60) days, before filing the report under § 66-29-123 if:

(1) The holder has in its records an address for the apparent owner sufficient to direct the delivery of first-class United States mail to the apparent owner, which the holder's records do not disclose to be invalid; and

(2) The value of the property is fifty dollars (\$50.00) or more.

(c) If an apparent owner has consented to receive electronic mail communications from the holder, the holder shall send the notice described in subsection (a) both by first-class United States mail to the apparent owner's last known mailing address and by electronic mail, unless the holder has reason to believe that the apparent owner's electronic mail address is not valid.

66-29-129.

(a) The notice under § 66-29-128 must contain a heading that reads substantially as follows: "Notice: The State of Tennessee requires us to notify you that your property may be transferred to the custody of the treasurer if you do not contact us within thirty (30) days after the date of this notice."

(b) The notice under § 66-29-128 must:

(1) State that the property will be turned over to the treasurer;

(2) State that, after the property is turned over to the treasurer, an apparent owner that seeks return of the property must file a claim with the treasurer;

(3) Identify any owners of the property;

(4) Identify the nature and, except for property that does not have a fixed value, the value of the property that is the subject of the notice;

(5) State that property which is not legal tender of the United States may be sold by the treasurer; and

(6) Provide instructions that the apparent owner must follow to prevent the holder from reporting and paying or delivering the property to the treasurer.

66-29-130.

(a) The treasurer shall give notice to an apparent owner that property presumed abandoned and that appears to be owned by the apparent owner is held by the treasurer under this part. The treasurer may prescribe by rule a minimum dollar value for items for which notice is sent.

(b) In providing notice under subsection (a), the treasurer shall:

(1) Except as otherwise provided in subdivision (b)(2), send written notice by first-class United States mail to each apparent owner of property held by the treasurer, unless the treasurer determines that a mailing by first-class United States mail would not be received by the apparent owner, and, in the case of a security held in an account for which the apparent owner consented to receiving electronic mail from the holder, send notice by electronic mail rather than first-class United States mail if the electronic mail address of the apparent owner is known to the treasurer;

(2) Send the notice to the apparent owner's electronic mail address if the treasurer does not have a valid United States mail address for an apparent owner, but has an electronic mail address that the treasurer does not know to be invalid;

(3) Publish every six (6) months in at least one newspaper of general circulation in this state notice of property held by the treasurer that must include:

(A) The total value of property received by the treasurer during the immediately preceding six (6) months, as indicated from the reports filed under § 66-29-123;

(B) The total value of claims paid by the treasurer during the immediately preceding six (6) months;

(C) The address of the unclaimed property website maintained by the treasurer;

(D) A telephone number and electronic mail address to contact the treasurer to inquire about or claim property; and

(E) A statement that a person may access the unclaimed property website of the treasurer through a computer to search for unclaimed property and that a computer may be available as a service to the public at a local public library; and

(4) Maintain a website or database, accessible by the public, that is electronically searchable and that contains the names reported to the treasurer of all apparent owners for whom property is being held by the treasurer; provided, that the treasurer may prescribe by rule a minimum dollar value for property listed on the website.

(c) The website or database maintained under subdivision (b)(4) must include instructions for filing with the treasurer a claim to property.

(d) In addition to giving notice under subsection (b), the treasurer may use printed publication, telecommunication, the internet, or other media to inform the public of the existence of unclaimed property held by the treasurer.

66-29-131.

Unless otherwise prohibited by any law of this state, on request of the treasurer, each officer, agency, board, commission, division, and department of this state, any body, politic and corporate, created by this state for a public purpose, and each political subdivision of this state shall make its books and records available to the treasurer and cooperate with the treasurer to determine the current address of an apparent owner of property held by the treasurer under this part.

66-29-132.

Under this part, payment or delivery of property is made in good faith if a holder:

(1) Had a reasonable basis for believing, based on the facts then known, that the property was required or permitted to be paid or delivered to the treasurer under this part; or

(2) Made payment or delivery:

(A) In response to a demand by the treasurer or treasurer's agent;

or

(B) Pursuant to guidance or a ruling issued by the treasurer that the holder reasonably believed required or permitted the property to be paid or delivered.

66-29-133.

(a) A holder may deduct a dormancy charge from property required to be paid or delivered to the treasurer if:

(1) A valid and enforceable contract between a holder and an apparent owner authorizes imposition of the charge for the apparent owner's failure to claim the property within a specified time; and

(2) The holder regularly imposes the charge and does not regularly reverse or otherwise cancel the charge.

(b) The amount of the deduction under subsection (a) is limited to an amount that is not unconscionable considering all relevant factors, including the marginal transactional costs incurred by the holder in maintaining the apparent owner's property and any services received by the apparent owner.

66-29-134.

(a) Except as otherwise provided in this section, upon filing a report under § 66-29-123, the holder shall pay or deliver to the treasurer the property described in the report. Property paid to the treasurer must be remitted through an electronic funds transfer as prescribed by the treasurer. The treasurer may waive the requirement to submit payment by electronic means for holders who demonstrate in writing that compliance would be too costly or oppressive to the holder.

(b) Any unclaimed checks held by the state that were derived from one hundred percent (100%) federal funding must not be delivered to the treasurer under this part if such delivery would render the state ineligible for future federal funding. Upon written request and for good cause shown, the treasurer may postpone the payment or delivery upon such terms and conditions as the treasurer deems necessary and appropriate.

(c) If property in a report under § 66-29-123 is an automatically renewable deposit and a penalty or forfeiture in the payment of interest would result from paying the deposit to the treasurer at the time of the report, the date for payment of the property to the treasurer is extended until the date when payment would no longer result in a penalty or forfeiture if the holder informs the treasurer of such date.

(d) Except for military medals, tangible property must not be delivered to the treasurer at the time of filing the report. The treasurer shall review the report of such

property and be given the opportunity to decline to receive any such property reported if the treasurer determines that the value of the property is less than the cost of giving notice and holding sale, or the treasurer may, because of the small sum involved, postpone taking possession until property of a sufficient value accumulates. Unless the holder of such property is notified to the contrary within one hundred twenty (120) days after filing the report required under § 66-29-123, the treasurer is deemed to have elected to receive custody of the property and the holder thereof shall, at the end of such one hundred twenty (120) days, pay or deliver such property to the treasurer.

(e) Notwithstanding any provision of this section to the contrary, contents removed from any safe deposit box, safekeeping repository or agency, or collateral deposit box described in § 66-29-109, except for military medals, must be sold or disposed of by the holder in accordance with § 45-2-907, or pursuant to instructions received from the treasurer, and the proceeds, less reasonable costs of sale and storage, must be remitted to the treasurer within sixty (60) days of sale. Military medals must be retained, and reported and delivered to the treasurer, in accordance with § 66-29-109(b).

(f) If property reported to the treasurer under § 66-29-123 is a security, the treasurer may:

(1) Make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer, its transfer agent, or the securities intermediary to transfer the security; or

(2) Dispose of the security under § 66-29-142.

(g) If the holder of property reported to the treasurer under § 66-29-123 is the issuer of a certificated security, the treasurer may obtain a replacement certificate in

physical or book-entry form in the manner in which an owner may obtain a replacement certificate under § 47-8-405. An indemnity bond is not required.

(h) The treasurer shall establish procedures for the registration, issuance, method of delivery, transfer, and maintenance of securities delivered to the treasurer by a holder.

(i) An issuer, holder, or transfer agent, or other person acting under the instructions of, and on behalf of, the issuer or holder under this section, who delivers abandoned property to the treasurer under this part is relieved of all liability to the extent of the value of the property delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.

(j) A holder is not required to deliver to the treasurer a security identified by the holder as a non-freely transferable security. Upon determination by the treasurer or the holder that a security is no longer a non-freely transferable security, the security must be subsequently remitted on the next regular date prescribed for delivery of securities under this part. The holder shall make a determination annually whether a security identified in a report filed under § 66-29-123 as a non-freely transferable security is no longer a non-freely transferable security.

(k)

(1) Notwithstanding this part, United States savings bonds that are unclaimed and presumptively abandoned under this part shall escheat to the state at the time of the presumed abandonment, and all property rights to such United States savings bonds or proceeds from such bonds shall thereupon vest solely in the state.

(2) Within one hundred eighty (180) days after the bonds and obligations thereunder have been reported by a holder pursuant to § 66-29-123, if no claim

has been filed in accordance with this part for such United States bonds and obligations, the treasurer shall commence a civil action in the chancery court of Davidson County to determine whether such United States savings bonds shall escheat to the state. The treasurer may postpone the bringing of such action until sufficient United States savings bonds have accumulated in the treasurer's custody to justify the expense of such proceedings.

(3) The summons and complaint must name the last known owner as the defendant, and must be served and filed as provided by law. At the time of the filing of the summons and complaint, the treasurer shall mail to the last known address of the owner a notice entitled "Notice of Proceedings to Confirm Certain United States Savings Bonds as Escheated to the State of Tennessee," which must include the following information:

(A) The name and last known address of the owner, if previously reported;

(B) A statement identifying the action and stating that its purpose is to confirm escheat of the property to the state;

(C) The place, time, and date of the hearing; and

(D) A direction that any person claiming to be entitled to such United States savings bonds may claim the property before or at the hearing.

(4) At the time the action is commenced, the treasurer, as to all items having a value in excess of fifty dollars (\$50.00), shall also cause the notice provided in subdivision (k)(3) to be published once each week for two (2) consecutive weeks in a newspaper having general circulation in the county in which the last known address of the owner is located, according to the records

on file with the treasurer. If no address is available, the notice must be published in such time, place, and manner as, in the treasurer's judgment, is most likely to notify the owner of the proceedings.

(5) If no person files a claim or appears at the hearing to substantiate a claim, or if the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the treasurer has substantially complied with this section, shall enter a judgment confirming that the subject United States savings bonds have escheated to the state.

(6) The treasurer shall redeem such United States savings bonds escheated to the state and the proceeds from such redemption must be deposited in accordance with § 66-29-146.

(7) Any person making a claim for United States savings bonds escheated to the state under this subsection (k), or for the proceeds from such bonds, may file a claim in accordance with § 66-29-152. Upon receiving sufficient proof of the validity of such person's claim, the treasurer may pay such claim in accordance with § 66-29-153.

66-29-135.

On payment or delivery of property to the treasurer under this part, the treasurer, as agent for the state, assumes custody and responsibility for the safekeeping of the property. A holder that pays or delivers property to the treasurer in good faith and who has complied with §§ 66-29-128 and 66-29-129 is relieved of liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise with respect to the property and is indemnified against claims in accordance with this section.

66-29-136.

(a) A holder that pays money to the treasurer under this part may claim reimbursement from the treasurer of the amount paid if the holder:

(1) Paid the money in error; or

(2) After paying the money to the treasurer, paid the money to a person the holder reasonably believed to be entitled to the money.

(b) If a claim for reimbursement under subsection (a) is made for a payment made on a negotiable instrument, including a traveler's check, money order, or similar instrument, the holder shall submit proof that the instrument was presented and that payment was made to a person the holder reasonably believed to be entitled to payment. The holder may claim reimbursement even if the payment was made to a person whose claim was made after expiration of a period of limitation on the owner's right to receive or recover property, whether specified by contract, statute, or court order.

(c) If a holder is reimbursed by the treasurer under subdivision (a)(2), the holder may also submit a claim to recover from the treasurer dividends, interest, or other increments under § 66-29-137 that would have been paid to the owner, if the money had been claimed from the treasurer by the owner to the extent that such dividends, interest, or increments were paid by the holder to the owner.

(d) A holder that delivers property other than money to the treasurer under this part may claim the property in the possession of the treasurer by filing a claim under § 66-29-152 together with evidence sufficient to establish that the apparent owner has claimed the property from the holder or that the property was delivered by the holder to the treasurer in error.

(e) The treasurer may determine that an affidavit submitted by a holder is evidence sufficient to establish that the holder is entitled to reimbursement or to recover property under this section.

(f) A holder is not required to pay a fee or other charge for reimbursement or return of property under this section.

(g) Not later than ninety (90) days after receiving a claim from a holder under subsection (a) or (c), the treasurer shall determine whether to approve or deny the claim and notify the holder of the treasurer's determination.

66-29-137.

If property other than money is delivered to the treasurer, the owner is entitled to receive from the treasurer income or gain realized or accrued on the property before the property is sold, including, if applicable, dividends, interest, or other increments. If the property was an interest-bearing demand, savings, or time deposit, the treasurer shall pay interest annually at the average annual rate paid on funds in the state pooled investment fund established under § 9-4-603. Interest begins to accrue when the property is delivered to the treasurer and ends on the date on which payment is made to the owner.

66-29-138.

(a) The treasurer may decline to take custody of property reported under § 66-29-123 if the treasurer determines that:

(1) The property has a value less than the estimated expenses of notice and sale of the property; or

(2) Taking custody of the property would be unlawful.

(b) A holder may pay or deliver property to the treasurer before the property is presumed abandoned under this part if the holder:

(1) Sends the apparent owner of the property any notice required by § 66-29-128 and provides the treasurer evidence of the holder's compliance with this subdivision (b)(1);

(2) Includes with the payment or delivery a report regarding the property in accordance with § 66-29-124; and

(3) First obtains the treasurer's consent in a record to accept payment or delivery.

(c) The holder must request the treasurer's consent under subdivision (b)(3) in a record. If the treasurer fails to respond to the request not later than thirty (30) calendar days after receipt of the request, the treasurer is deemed to consent to the payment or delivery of the property and the payment or delivery is considered to have been made in good faith.

(d) Upon payment or delivery of the property under subsection (b), the property is presumed abandoned.

66-29-139.

If the treasurer takes custody of property delivered under this part and later determines that the property has no substantial commercial value or that the cost of disposing of the property will exceed the value of the property, the treasurer may return the property to the holder or destroy or otherwise dispose of the property. No action or proceeding may be brought or maintained against the state or any officer thereof for or on account of any action taken by the treasurer pursuant to this part with respect to such property.

66-29-140.

(a) Expiration, before, on, or after the effective date of this act, of a period of limitation on an owner's right to receive or recover property, whether specified by

contract, statute, or court order, does not prevent the property from being presumed abandoned or affect the duty of a holder to file a report or pay or deliver property to the treasurer under this part.

(b) The treasurer shall not commence an action or proceeding to enforce this part with respect to the reporting, payment, or delivery of property more than five (5) years after a holder files a nonfraudulent report with the treasurer under § 66-29-123. The parties may agree in a record to extend the limitation in this subsection.

(c) The treasurer shall not commence an action, proceeding, or examination with respect to a duty of a holder under this part more than ten (10) years after the duty arose.

66-29-141.

(a) Except as otherwise provided in § 66-29-154, not earlier than three (3) years after receipt of property that has been presumed abandoned, the treasurer may sell the property.

(b) A sale under subsection (a) must be preceded by notice to the public of:

- (1) The date of the sale; and
- (2) A reasonable description of the property.

(c) A sale under subsection (a) must be to the highest bidder:

- (1) At a public sale at a location in this state which the treasurer determines to be the most favorable market for the property; or
- (2) On the internet or another forum the treasurer determines is likely to yield the highest net proceeds of sale.

(d) The treasurer may decline the highest bid at a sale under subsection (a) and reoffer the property for sale if the treasurer determines the highest bid is insufficient.

(e) If a sale held under this section is to be conducted other than by electronic means, the treasurer must publish not less than one (1) notice of the sale at least three (3) weeks, but not more than five (5) weeks, before the sale, in a newspaper of general circulation in the county in which the property is to be sold.

66-29-142.

(a) The treasurer shall not sell or otherwise liquidate a security within three (3) years of receiving the security and giving the apparent owner notice under § 66-29-130 that the treasurer holds the security.

(b) The treasurer shall not sell a security listed on an established stock exchange for less than the prevailing price on the exchange at the time of sale. The treasurer may sell a security not listed on an established exchange by any commercially reasonable method.

66-29-143.

(a) If the treasurer sells a security before the expiration of six (6) years following delivery to the treasurer, an apparent owner that makes a valid claim under this part of ownership of the security before the six-year period expires, is entitled, at the option of the treasurer, to receive:

(1) A replacement of the security; or

(2) The market value of the security at the time the claim is made, plus dividends, interest, and other increments on the security up to the time the claim is paid.

(b) Replacement of the security or calculation of market value under subsection (a) must take into account a stock split, reverse stock split, stock dividend, and any similar corporate action.

(c) A person that makes a valid claim under this part of ownership of a security more than six (6) years after delivery of a security to the treasurer is entitled to receive:

(1) The security the holder delivered to the treasurer, if it is in the custody of the treasurer, plus dividends, interest, and other increments on the security up to the time the claim is paid; or

(2) The net proceeds from the sale of the security, plus dividends, interest, and other increments on the security up to the time the security is sold.

66-29-144.

A purchaser of property at a sale conducted by the treasurer under this part takes the property free of all claims of the owner, a previous holder, or a person making a claim through the owner or holder. The treasurer shall execute documents necessary to complete the transfer of ownership to the purchaser.

66-29-145.

(a) The treasurer, upon receiving military medals, shall hold and maintain the military medals until the original owner or the owner's respective heirs or beneficiaries can be identified and the military medal returned.

(b) The treasurer shall not sell a military medal.

(c) The treasurer, with the consent of the respective organization under subdivision (c)(1), agency under subdivision (c)(2), or entity under subdivision (c)(3), may deliver a military medal held under subsection (a) to be held in custody for the owner, to:

(1) A military veteran's organization qualified under 26 U.S.C. § 501(c)(19);

(2) The agency that awarded the medal or decoration; or

(3) A governmental entity.

(d) Upon delivery under subsection (c), the treasurer is no longer responsible for safekeeping the medal or decoration.

66-29-146.

(a) Except as otherwise provided in this section, the treasurer shall deposit in the general fund of the state all funds received under this part, including proceeds from the sale of property under this part.

(b) The treasurer shall maintain an account with an amount of funds the treasurer reasonably estimates to be sufficient to pay claims allowed under, and the costs of administering, this part for each fiscal year. If the treasurer determines that the amount of claims and administrative costs during a fiscal year exceeds the amount of funds received during such fiscal year, a sum sufficient must be appropriated from the general funds of the state to the treasurer for the payment of such claims and costs.

(c) For funds received under this part for the report year ending December 31, 2016, and for each report year thereafter, the treasurer shall determine each June 30 the amount of such funds remitted by or on behalf of each local government of the state and its agencies which have remained unclaimed for a minimum of eighteen (18) months following their delivery to the treasurer. If the aggregate unclaimed balance exceeds one hundred dollars (\$100), the treasurer shall, upon request of the local government, pay an amount equal to the aggregate unclaimed balance, less a proportionate share of the cost of administering the program, as determined by the treasurer, to the local government, together with a report of the accounts represented by the funds. The funds must be placed in the local government's general fund, except the local government shall maintain, to the extent necessary, a sufficient amount of the total unclaimed property accounts to ensure prompt payment.

(d) For funds received under this part for the report year ending December 31, 2016, and for each report year thereafter, the treasurer shall determine each June 30 the amount of such funds remitted by or on behalf of each cooperative, as that term is defined in § 65-25-102, that have remained unclaimed for a minimum of eighteen (18) months following the delivery of the cooperative's funds to the treasurer. If the aggregate unclaimed balance exceeds one hundred dollars (\$100), the treasurer, upon request of the cooperative, shall pay an amount equal to the aggregate unclaimed balance, less a proportionate share of the cost of administering the program, as determined by the treasurer, to the cooperative, together with a report of the accounts represented by the funds. The funds must be placed in the cooperative's general fund, except the cooperative shall maintain, to the extent necessary, a sufficient amount of the total unclaimed property accounts to ensure prompt payment.

66-29-147.

The treasurer shall:

- (1) Record and retain the name and last known address of each person shown on a report filed under § 66-29-123 to be the apparent owner of the property delivered to the treasurer;
- (2) Record and retain the name and last known address of each insured or annuitant, and beneficiary, shown on the report;
- (3) With respect to each policy of insurance or annuity contract listed in the report of an insurance company, record and retain the policy or account number, the name of the company, and the amount due or paid; and
- (4) With respect to each apparent owner listed in the report, record and retain the name of the holder who filed the report and the amount due or paid.

66-29-148.

Before making a deposit of funds received under this part to the general fund of the state, the treasurer may deduct administrative costs, including, but not limited to:

- (1) Expenses of custody and disposition of abandoned property;
- (2) Costs of mailing, publication, and any other outreach efforts in connection with abandoned property;
- (3) Reasonable service charges; and
- (4) Expenses incurred in examining records of a putative holder of property and collecting property from a putative holder determined by the treasurer to hold property required to be delivered to the treasurer under this part.

66-29-149.

Property received by the treasurer under this part is held in custody for the benefit of the owner and is not owned by the state.

66-29-150.

(a) If the treasurer knows that property held by the treasurer under this part is subject to a superior claim of another state, the treasurer shall:

- (1) Report, and pay or deliver, the property to the other state; or
- (2) Return the property to the holder so that the holder may pay or deliver the property to the other state.

(b) The treasurer is not required to enter into a formal agreement to transfer the property to another state under subsection (a).

66-29-151.

(a) Property held by the treasurer under this part is subject to the right of another state to take custody of the property if:

(1) The property was paid or delivered to the treasurer because the records of the holder did not reflect a last known address of the apparent owner in another state, and:

(A) That state establishes that the last known address of the apparent owner or other person entitled to the property was in that state; or

(B) Under the law of that state, the property has become subject to a claim of abandonment by that state;

(2) The records of the holder did not accurately identify the apparent owner of the property, the last known address of the owner was in another state, and, under the law of that state, the property has become subject to a claim of abandonment in that state;

(3) The property was subject to the custody of the treasurer of this state under § 66-29-119 and, under the law of the state of domicile of the holder, the property has become subject to a claim of abandonment by the state of domicile of the holder; or

(4) The property:

(A) Is a sum payable on a traveler's check, money order, or similar instrument that was purchased in another state and delivered to the treasurer under § 66-29-120; and

(B) Under the law of that state, has become subject to a claim of abandonment in that state.

(b) A claim by another state to recover property under this section must be presented in a form prescribed by the treasurer unless the treasurer waives presentation of the form.

(c) The treasurer shall decide whether a claim under this section is valid not later than ninety (90) days after it is presented. If the treasurer determines that another state is entitled under subsection (a) to custody of the property, the treasurer shall approve the claim and pay or deliver the property to that state.

(d) The treasurer may require another state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim to property.

66-29-152.

(a) A person claiming to be the owner of property held by the treasurer may file a claim for the property in the format prescribed by the treasurer. The claimant shall verify the claim as to its completeness and accuracy.

(b) The treasurer may waive the requirement in subsection (a) to file a claim and pay or deliver property directly to a person if:

(1) The person receiving the property or payment is shown to be the same person as the apparent owner included on a report filed under § 66-29-123; and

(2) The treasurer reasonably believes the person is entitled to receive the property or payment.

66-29-153.

(a) The treasurer shall pay or deliver property to a claimant under § 66-29-152:

(1) If the treasurer receives evidence sufficient to establish to the reasonable satisfaction of the treasurer that the claimant is the owner of the property; or

(2) Upon order of a court in accordance with § 66-29-155.

(b) Not later than ninety (90) days after a claim is filed under § 66-29-152, the treasurer shall approve or deny the claim and give the claimant notice of the decision in a record. If the claim is denied:

(1) The treasurer shall inform the claimant of the reason for the denial and specify what additional evidence, if any, is required for the claim to be approved;

(2) The claimant may file an amended claim with the treasurer or commence an action under § 66-29-155; and

(3) The treasurer shall treat an amended claim as an initial claim filed under § 66-29-152.

66-29-154.

(a) Not later than thirty (30) days after a claim is approved by the treasurer under § 66-29-153, the treasurer shall pay or deliver to the owner the property or the net proceeds from a sale of the property, together with dividends, interest, or other increments to which the owner is entitled under § 66-29-137. On request of the owner, the treasurer may sell or liquidate a security and pay the net proceeds to the owner, regardless of whether the security had been held by the treasurer for less than three (3) years or the treasurer has not complied with the notice requirements under § 66-29-142. If the treasurer sells or liquidates a security under this subsection, the owner is not entitled to recovery under § 66-29-143.

(b) Property held by the treasurer is subject to a claim for the payment of an enforceable debt that the owner owes in this state for:

(1) Child support arrearages, including child support collection costs and child support arrearages that are combined with amounts for maintenance;

(2) A civil or criminal fine or penalty, court costs, a surcharge, or restitution imposed by a final order of an administrative agency or court; or

(3) State and local taxes, penalties, and interest that have been determined to be delinquent, or for which notice has been recorded with the applicable taxing authority.

(c) The treasurer may make periodic inquiries with state and local agencies in the absence of a claim filed under § 66-29-152 to determine whether apparent owners included in the unclaimed property records of this state have enforceable debts described in subsection (b). The treasurer shall apply the property or net proceeds from a sale of property held by the treasurer to a debt under subsection (b) of an apparent owner who appears in the records of the treasurer and deliver the amount to the appropriate state or local agency. The treasurer shall notify the apparent owner of the payment.

(d) Before delivery or payment to an owner under subsection (a) of property or net proceeds from a sale of property, the treasurer shall apply the property or net proceeds to a debt under subsection (b) that the treasurer has determined is owed by the owner. The treasurer shall pay the amount to the appropriate state or local agency and notify the owner of the payment.

66-29-155.

Not later than one (1) year after filing a claim with the treasurer under § 66-29-152, the claimant may commence an action against the treasurer in the chancery court for Davidson County to appeal a claim that has been denied or upon which the treasurer has not acted. A copy of the complaint must be served on the treasurer and the attorney general and reporter. The suit must be tried without a jury. If the chancery court rules

against the treasurer, the treasurer shall make payment in accordance with § 66-29-153. Any aggrieved party may appeal the decision.

66-29-156.

If a person does not file a report required by § 66-29-123, or the treasurer believes that a person may have filed an inaccurate, incomplete, or false report, the treasurer may require the person to file a verified report on a form prescribed by the treasurer. The report must:

- (1) State whether the person is holding property reportable under this part;
- (2) Describe property not previously reported or about which the treasurer has enquired; and
- (3) Specifically identify property described under subdivision (2) for which there is a dispute as to whether it is reportable under this part and state the amount or value of the property.

66-29-157.

The treasurer, at reasonable times and upon providing reasonable notice, may:

- (1) Examine the records of a person to determine whether the person has complied with this part, including appropriate records in the possession of an agent of the person under examination, if such records are reasonably necessary to determine whether the person under examination has complied with this part;
- (2) Issue an administrative subpoena requiring a person or an agent of the person to make records available for examination; and
- (3) Bring an action seeking judicial enforcement of the subpoena.

66-29-158.

(a) The treasurer shall prescribe by rule procedures and standards for an examination under § 66-29-157, including procedures and standards for the use of an estimation, extrapolation, and statistical sampling during an examination.

(b) An examination under § 66-29-157 must be performed in accordance with procedures and standards adopted by rule under subsection (a) and with generally accepted examination procedures and standards applicable to unclaimed property examinations.

(c) If a person subject to examination under § 66-29-157 has filed all reports required by § 66-29-123 and has retained the records required by § 66-29-126, the following provisions apply:

(1) The examination must include a review of the person's records;

(2) The examination must not be based on an estimate unless the person expressly consents in a record to the use of an estimate; and

(3) The person conducting the examination shall consider all evidence presented by the person in good faith in preparing a report of the examination under § 66-29-162.

66-29-159.

(a) Records obtained in the course of conducting an examination under § 66-29-157, including work papers compiled by the treasurer or the treasurer's agents, employees, or designated representatives, and any information that identifies the fact that a particular person, institution, business, or entity was or is the subject of an examination under § 66-29-157, are confidential and are not public records; provided, that the records and information are not confidential:

(1) To the extent that the person, institution, business, or entity that was or is the subject of the examination consents to disclosure;

(2) To the extent that the treasurer, or the treasurer's employees, agents, or representatives use the records for the purpose of administering this part;

(3) If used for the purposes of complying with a subpoena or a court order;

(4) In joint unclaimed property examinations or audits conducted by the treasurer with, or pursuant to, an agreement with another state, federal agency, or any other governmental subdivision, agency, or instrumentality;

(5) To the extent that the comptroller of the treasury or the comptroller's designees use the records for the purpose of an audit; or

(6) In the course of any action or proceeding by the treasurer or the treasurer's employees, agents, or representatives to collect unclaimed property, to collect any unpaid interest due on unclaimed property, or to otherwise enforce this part.

(b) As used in this section, "work papers" means those records created to serve as an input for final reporting documents.

(c) All final reports submitted to the treasurer pursuant to § 66-29-123 are records open to the public, including the identity of any holder that submits a report; provided, that any information included in a final report that identifies the fact that a holder was the subject of an audit conducted under this part must be redacted prior to disclosure unless the disclosure falls within one (1) of the exceptions under subsection (a).

(d) The treasurer has the sole discretion to implement disciplinary actions against any employee, agent, or representative of the treasurer who intentionally discloses records that are deemed confidential under this section, including, but not limited to, terminating a contract with any vendor that violates this section.

66-29-160.

(a) A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.

(b) A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation with respect to such debt or obligation or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.

(c) A putative holder may overcome prima facie evidence under subsection (a) by establishing by a preponderance of the evidence that a check, draft, or similar instrument was:

(1) Issued as an unaccepted offer in settlement of an unliquidated amount;

(2) Issued but later replaced with another instrument because the earlier instrument was lost or contained errors that were corrected;

(3) Issued to a party affiliated with the issuer;

(4) Paid, satisfied, or discharged;

(5) Issued in error;

(6) Issued without consideration;

(7) Voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record; or

(8) Issued but not delivered to the third-party payee for a sufficient reason recorded within a reasonable time after issuance.

(d) In asserting a defense under this section, a putative holder may present evidence of a course of dealing or custom and practice between the putative holder and the apparent owner.

66-29-161.

If a person subject to examination under § 66-29-157 does not retain the records required by § 66-29-126, the treasurer may determine the amount of property due using a reasonable method of estimation based on all information available to the treasurer, including extrapolation and the use of statistical sampling when appropriate and necessary, consistent with examination procedures and standards adopted under § 66-29-158.

66-29-162.

At the conclusion of an examination under § 66-29-157, unless waived in writing by the person being examined, the treasurer shall provide to the person whose records were examined a complete and unredacted examination report, which must identify in detail:

- (1) The work performed;
 - (2) The property types reviewed;
 - (3) The methodology of any estimation technique, extrapolation, or statistical sampling used in conducting the examination;
 - (4) Each calculation showing the value of property determined to be due;
- and
- (5) The findings of the person conducting the examination.

66-29-163.

(a) If a person subject to examination under § 66-29-157 believes the person conducting the examination has made an unreasonable or unauthorized request or is not proceeding expeditiously to complete the examination, the person in a record may ask the treasurer to intervene and take remedial action as the circumstances may require, including countermanding the request of the person conducting the examination,

imposing a time limit for completion of the examination, or reassigning the examination to another person.

(b) If a person in a record requests a conference with the treasurer to present matters that are the basis of a request for intervention under subsection (a), the treasurer shall hold the conference not later than thirty (30) days after receiving the request. The treasurer may hold the conference in person, by telephone, or by electronic means. The treasurer may designate an employee of the treasurer to hold the conference under this subsection (b).

(c) If a conference is held under subsection (b), the treasurer, or the treasurer's designee, shall provide a report in a record of the conference to the person that requested the conference not later than thirty (30) days after the conference.

66-29-164.

(a) The treasurer may contract with a person to conduct an examination under this part. The treasurer shall make any contract entered into under this section available for public inspection during normal business hours.

(b) Not less than sixty (60) days before contracting with a person to conduct an examination for the treasurer under subsection (a), the treasurer shall give the person to be examined a demand in a record to submit a report and deliver property that is subject to this part.

(c) On request by a person subject to examination by a contractor, the treasurer shall deliver to the person a complete unredacted copy of the contract between the treasurer and the contractor relating to the examination and any contract between the contractor and a person employed or engaged by the contractor to conduct the examination.

(d)

(1) It is hereby declared unlawful for the treasurer, or an individual employed by the treasurer who participates in, recommends, or approves the award of a contract under this section, to bid on, procure, or have any interest in a contract to conduct an examination under this section during the tenure of the treasurer's or employee's office or employment, and for six (6) months thereafter.

(2) A person violating subsection (a) is liable to the state for any and all sums paid out by the state, together with interest at the rate of eight percent (8%) per annum, growing out of any such transaction.

(3) A violation of subdivision (d)(1) is a Class E felony.

66-29-165.

(a) Not later than four (4) months after the end of a fiscal year, the treasurer shall compile and submit a report to the governor, comptroller of the treasury, speaker of the senate, and speaker of the house of representatives which must contain the following information for the immediately preceding fiscal year:

(1) The total amount and value of all property paid or delivered to the treasurer under this part, separated into:

(A) The amount voluntarily paid or delivered; and

(B) The amount paid or delivered as a result of an examination under § 66-29-157, which amount must be separated into the amount recovered as a result of an examination conducted by:

(i) A state employee; and

(ii) A person under contract under § 66-29-164;

(2) The name and amount paid to each contractor under § 66-29-164 and the percentage the total compensation paid to all contractors under § 66-29-

164 bears to the total value of all property paid or delivered to the treasurer as a result of examinations;

(3) The total amount and value of all property paid or delivered by the treasurer to persons that made claims for property held by the treasurer and the percentage the total payments made, or value of property paid or delivered, to claimants bears to the total value of property paid or delivered to the treasurer; and

(4) The total amount of:

(A) Claims made by persons claiming to be owners which were denied;

(B) Claims made by persons claiming to be owners which were approved; and

(C) Funds received and the value of property held by the treasurer subject to claims of owners.

(b) The report submitted by the treasurer under subsection (a) is a public record subject to public disclosure without redaction under title 10, chapter 7, part 5.

66-29-166.

If the treasurer determines from an examination conducted under § 66-29-157 that a putative holder has failed or refused to pay or deliver property to the treasurer which is reportable under this part, the treasurer shall issue a determination of the putative holder's liability with respect to the payment or delivery of property, and provide to the putative holder notice in a record of the determination.

66-29-167.

(a) Not later than thirty (30) days after receipt of a notice of determination of liability under § 66-29-166 a putative holder may request an informal conference with the

treasurer to review the determination. The treasurer may designate an employee to act on behalf of the treasurer for all purposes of this section.

(b) If a putative holder makes a timely request under subsection (a) for an informal conference:

(1) The treasurer shall set a place and time for the conference not later than twenty (20) days after the date of the request, unless the putative holder and the treasurer mutually agree upon a later date;

(2) The treasurer shall give the putative holder notice of the time and place of the conference;

(3) The conference may be held in person, by telephone, or by electronic means, as determined by the treasurer;

(4) The conference may be postponed, adjourned, and reconvened as the treasurer determines appropriate;

(5) The treasurer, or the treasurer's designee with the approval of the treasurer, may modify a determination made under § 66-29-166 in part or withdraw it in its entirety; and

(6) The treasurer shall issue a decision in a record and provide a copy of the record to the putative holder and examiner not later than twenty (20) days after the conference ends unless the putative holder and the treasurer mutually agree to continue the conference.

(c) A conference under subsection (b) is not an administrative remedy and is not a contested case subject to title 4, chapter 5. An oath is not required and rules of evidence do not apply in the conference.

(d) At a conference under subsection (b), the putative holder must be given an opportunity to confer informally with the treasurer and the person who examined the records of the putative holder to:

(1) Discuss the determination made under § 66-29-166; and

(2) Present any issue the putative holder wishes to raise concerning the validity of the determination.

(e) If the treasurer fails to act within a period prescribed in subsection (b), the failure does not affect a right of the treasurer, except that interest does not accrue on the amount for which the holder was determined to be liable under § 66-29-166 during the period in which the treasurer failed to act until the earlier of:

(1) The date the putative holder files an action under § 66-29-169; or

(2) If no action is filed under § 66-29-169, the conclusion of the ninety-day period for filing an action under § 66-29-169.

(f) The treasurer may hold an informal conference with the putative holder without a request at any time before a putative holder files suit under § 66-29-169.

(g) Penalties under § 66-29-173 and § 66-29-174 continue to accrue for property not reported, paid, or delivered as required by this part following the initiation and during the pendency of an informal conference under this section.

66-29-168.

A putative holder may seek relief from a determination under § 66-29-166 that the putative holder believes is illegal, unjust, incorrect, or in error, in whole or in part, by seeking judicial review of the determination under § 66-29-169.

66-29-169.

(a) Not later than ninety (90) days after receiving notice of the treasurer's determination under § 66-29-166, the putative holder may:

(1) File an action against the treasurer in the chancery court for Davidson County challenging all or part of the treasurer's determination of liability and seeking a declaration that the determination is unenforceable, in whole or in part; or

(2) Pay or deliver the property to the treasurer and, not later than six (6) months after payment or delivery, initiate an action against the treasurer in the chancery court for Davidson County for a refund of all or part of the amount paid or a return of all or part of the property delivered.

(b) If a putative holder pays or delivers the property to the treasurer at any time after the putative holder files an action under subdivision (a)(1), the court must continue the action as if it had been filed originally as an action for a refund or return of property under subdivision (a)(2).

(c) A putative holder that is the prevailing party in an action under subsection (a) for a refund of money paid to the treasurer is entitled to interest on the amount refunded, at the same rate of interest a holder is required to pay to the treasurer under § 66-29-137, from the date paid to the treasurer until the date of the refund.

66-29-170.

(a) When a determination under § 66-29-166 becomes final, and after the period for filing an action under § 66-29-169, the treasurer may commence an action in the chancery court for Davidson County or in an appropriate court of another state to enforce the determination and secure payment or delivery of past due, unpaid, or undelivered property.

(b) In an action under subsection (a), if no court in this state has jurisdiction over the defendant, the treasurer may commence an action in a federal or state court of competent jurisdiction.

66-29-171.

The treasurer may:

(1) Securely exchange information with another state or foreign country relating to property presumed abandoned or relating to the possible existence of property presumed abandoned; and

(2) Authorize in a record another state or foreign country, or a person acting on behalf of another state or country, to examine its records of a putative holder; provided, that the state, country, or person agrees to abide by the provisions of § 66-29-159.

66-29-172.

(a) The treasurer, with the approval of the attorney general and reporter, may join other states or foreign countries to examine and seek enforcement of this part against any person believed to be holding property reportable under this part.

(b) On request of another state or foreign country, the attorney general and reporter may commence an action on behalf of such state or country to enforce, in this state, the law of such state or country against a putative holder of property presumed abandoned and subject to a claim by the other state or country; provided, that such state or country agrees to pay the costs incurred by the attorney general and reporter in the action.

(c) The treasurer, with approval of the attorney general and reporter, may request the official authorized to enforce the unclaimed property law of another state or foreign country to commence an action to recover property in such state or country on behalf of the treasurer. This state shall pay all costs, including reasonable attorney's fees and expenses, incurred by such state or country in an action under this subsection (c).

(d) The treasurer, with approval of the attorney general and reporter, may pursue an action on behalf of this state to recover property subject to this part that is delivered into the custody of another state if the treasurer believes the property is subject to the custody of the treasurer.

(e) The treasurer, with approval of the attorney general and reporter, may retain a private attorney in this state or another state or foreign country to commence an action to recover property on behalf of the treasurer and may agree to pay attorney's fees based in whole or in part on a fixed fee, hourly fee, or a percentage of the amount or value of property recovered in the action.

(f) Expenses incurred by this state in an action under this section may be paid from property received under this part or net proceeds from the property. Expenses incurred to recover property must not be deducted from the amount that is subject to a claim under this part by the owner.

66-29-173.

Except as otherwise provided in §§ 66-29-174 and 66-29-175, the treasurer may assess against a holder who fails to report, pay, or deliver property within the time prescribed by this part a civil penalty of two hundred dollars (\$200) for each day the duty is not performed, up to a cumulative maximum amount of five thousand dollars (\$5,000).

66-29-174.

(a) If a holder enters into a contract or other arrangement for the purpose of evading an obligation under this part, or otherwise willfully fails to perform a duty imposed on the holder under this part, the treasurer may assess against the holder a civil penalty of one thousand dollars (\$1,000) for each day the obligation is evaded or the duty is not performed, up to a cumulative maximum amount of twenty-five thousand dollars (\$25,000), plus an additional twenty-five percent (25%) of the amount or value of

any property for which the holder had a duty or obligation to report, pay, or deliver under this part.

(b) If a holder makes a fraudulent report under this part, the treasurer may assess against the holder a civil penalty of one thousand dollars (\$1,000) for each day from the date the fraudulent report was filed until a true and correct report is filed, up to a cumulative maximum of twenty-five thousand dollars (\$25,000), plus an additional twenty-five percent (25%) of the amount or value of any property for which the holder had duty to report.

66-29-175.

The treasurer has the authority to not assess or to waive any penalty under § 66-29-173 or § 66-29-174.

66-29-176.

(a) An agreement with an owner whereby the owner is to pay a fee or other remuneration for locating, delivering, recovering, or assisting in the recovery of property that has not yet been reported to the treasurer under this part is enforceable only if the agreement:

- (1) Is in writing;
- (2) Clearly sets forth the nature of the property and the services to be rendered;
- (3) Is signed by the apparent owner;
- (4) States the value of the property before and after the fee; and
- (5) Contains such other information as the state treasurer may, by rule, require.

(b) An agreement by an apparent owner and a person, the primary purpose of which is to locate, deliver, recover, or assist in the location, delivery, or recovery of property held by the treasurer, is enforceable only if the agreement:

(1) Is in a record that clearly sets forth the nature of the property and the services to be provided;

(2) Is signed by or on behalf of the apparent owner;

(3) States the amount or value of the property reasonably estimated or expected to be recovered, computed both before and after a fee or other compensation to be paid to the other person has been deducted;

(4) Does not provide for compensation of more than ten percent (10%) of the value of the recoverable property or fifty dollars (\$50.00), whichever is greater; and

(5) Contains such other information as the state treasurer may, by rule, require.

(c) An agreement under this section is void and unenforceable if it is entered into within two (2) years from the date on which the property was paid or delivered by the holder to the treasurer.

(d) If a provision in an agreement described in this section applies to mineral proceeds for which compensation must be paid to a person based in whole or in part on a portion of the underlying minerals or mineral proceeds not then presumed abandoned, the provision is void and unenforceable, regardless of when the agreement is executed.

(e) This section does not apply to an apparent owner's agreement with an attorney to pursue a claim for recovery of specifically identified property held by the treasurer or to contest the treasurer's denial of a claim for recovery of the property.

66-29-177.

(a) An apparent owner that contracts with a person to locate, deliver, recover, or assist in the location, delivery, or recovery of property of the apparent owner that is held by the treasurer may appoint or designate the person as the apparent owner's agent. The appointment or designation must be in a record signed by the apparent owner and delivered to the treasurer.

(b) An apparent owner's agent is entitled to receive from the treasurer all information concerning the property which the apparent owner would be entitled to receive, including information that would otherwise be confidential information under § 66-29-178.

(c) If authorized by the apparent owner, the apparent owner's agent may bring an action against the treasurer on behalf of, and in the name of, the apparent owner.

66-29-178.

(a) Information that is confidential under any law of this state other than this part, another state, or the United States, including personally identifying information, as that term is defined in § 10-7-504(a)(29)(C), and personal information, as that term is defined in § 47-18-2107(a)(3), continues to be confidential when disclosed or delivered under this part to the treasurer or the treasurer's agent; provided, that information that would otherwise be confidential, if for good cause and reasonably necessary for the enforcement or implementation of this part, may be disclosed by the treasurer or the treasurer's agent to:

- (1) An apparent owner or the apparent owner's personal representative or attorney, next of kin, or agent designated under § 66-29-177;
- (2) A deceased apparent owner's personal representative or attorney, next of kin, agent designated under § 66-29-177, or heir;
- (3) Another department or agency of this state or the United States;

(4) The person who administers the unclaimed property law of another state, if the state accords substantially reciprocal privileges to the treasurer and the state agrees to maintain the confidentiality and security of the information in the same manner as the treasurer; and

(5) A person who is the subject of an examination in an administrative or judicial proceeding relating to the property.

(b) The treasurer and the treasurer's agent shall not use confidential information provided to them or in their possession for any purpose except as expressly authorized by this part or required by any other law of this state.

(c) Except as otherwise provided in subsection (a), the treasurer shall include on a website or in a database as required by § 66-29-130(b)(4) the name of each apparent owner of property held by the treasurer. The treasurer may include on the website or in the database additional information concerning the apparent owner's property if the treasurer believes the information will assist in facilitating identification and return of the property to the owner, and the treasurer does not disclose personally identifying information other than the home or physical address of an apparent owner.

66-29-179.

A person to be examined under § 66-29-157 may require, as a condition of disclosing the person's records, that the treasurer or the treasurer's agent who has access to the records disclosed in the examination execute and deliver to the person to be examined a confidentiality agreement that:

(1) Is in a form that is reasonably satisfactory to the treasurer; and

(2) Requires the person to comply with the provisions of this part

applicable to the person.

66-29-180.

A holder is not required under this part to include confidential information in a notice the holder is required to provide to an apparent owner under this part.

66-29-181.

(a) If a holder is required to include confidential information in a report to the treasurer, the information must be provided in a secure manner.

(b) If confidential information in a record is provided to and maintained by the treasurer and the treasurer's agent as required by this part, the treasurer and the treasurer's agent shall:

(1) Implement administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of the information as required by state and federal law; and

(2) Protect against reasonably anticipated threats or hazards to the security, confidentiality, or integrity of the information, and against unauthorized access to or use of the information for the purpose of preventing substantial harm or inconvenience to a holder or the holder's customers, including insureds, annuitants, policy or contract owners, and beneficiaries.

(c) The treasurer shall:

(1) Maintain confidential information held pursuant to this part in accordance with security and confidentiality policies prescribed by rule of the department of treasury; and

(2) Require that the treasurer's agent maintain confidential information held pursuant to this part in a secure manner.

(d) The treasurer or the treasurer's agent shall comply, and shall cooperate with a holder, if applicable, in complying with the requirements of § 47-18-2107 regarding the unauthorized acquisition of computerized data.

66-29-182.

In applying and construing this part, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

66-29-183.

Except as otherwise provided in this section, this part modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.). This part does not modify, limit, or supersede Section 101(c) of the Act, (15 U.S.C. § 7001(c)), or authorize electronic delivery of any of the notices described in Section 103(b) of the Act (15 U.S.C. § 7003(b)).

66-29-184.

(a) An initial report filed under this part for property that was not required to be reported before the effective date of this act, but that is required to be reported under this part after such date, must include all items of property that would have been presumed abandoned during the ten-year period immediately preceding the effective date of this act as if this act had been in effect during that period.

(b) This part does not relieve a holder of a duty that arose before the effective date of this act to report, pay, or deliver property under any provision of law in effect before the effective date of this act. Except as otherwise provided in § 66-29-140, a holder who did not comply with the law governing unclaimed property before the effective date of this act is subject to applicable provisions for enforcement and penalties in effect before the effective date of this act.

(c) Interest on interest-bearing property is not payable for any period before the effective date of this act, unless authorized by a provision of law superseded by this act.

SECTION 2. Tennessee Code Annotated, Title 30, 45, 48, 56, 66, and 67, are amended by deleting the language "Uniform Disposition of Unclaimed Property Act" wherever it may appear and substituting instead "Uniform Unclaimed Property Act".

SECTION 3. Tennessee Code Annotated, Section 56-7-3404(f), is amended by deleting "property pursuant to § 66-29-105." and substituting instead "property under title 66, chapter 29, part 1."

SECTION 4. Tennessee Code Annotated, Section 56-7-3406, is amended by deleting subsection (c) and substituting instead the following:

(c) An insurer shall pay unclaimed proceeds of a policy, annuity, or retained asset account not later than the last day of the period prescribed for such payment under title 66, chapter 29, part 1; provided, that an insurer may pay the unclaimed proceeds of a policy, annuity, or retained asset account prior to the end of such period.

SECTION 5. Tennessee Code Annotated, Section 67-5-2702(c)(5), is amended by deleting the language "For the purposes of § 66-29-110, the" and substituting instead "The".

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.